

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

LARNETTE M. WESTBROOK,

Petitioner,

v.

Civil Action No. 5:06CV86
(STAMP)

UNITED STATES OF AMERICA,

Respondent.

**ORDER DENYING CERTIFICATE OF APPEALABILITY
AND DENYING OTHER MOTIONS FOR LACK OF JURISDICTION**

On July 11, 2007, this Court denied the petitioner's habeas corpus application, filed pursuant to 28 U.S.C. § 2241. The Court also notified the petitioner of his right to appeal the judgment of this Court.

On August 28, 2007, the petitioner filed a motion styled "Motion for Disposition on this Civil Action No. 5:06cv86 Writ of Habeas Corpus Show Cause's Order Document No. 29/Cross Reference Notes of Appeal/Recommendation of Magistrate Judge." This Court construes petitioner's motion as one for a certificate of appealability. Pursuant to 28 U.S.C. § 2253(c) and Rule 22(b) of the Rules of Appellate Procedure, this Court finds that it is inappropriate to issue a certificate of appealability in this matter. Specifically, the Court finds that the petitioner has not made a "substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court

is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). Upon review of the record, this Court finds that the petitioner has not made the requisite showing. Accordingly, the petitioner's request for a certificate of appealability is hereby DENIED.

The petitioner may, however, request a circuit judge of the United States Court of Appeals for the Fourth Circuit to issue the certificate.

Petitioner's other motions, filed on August 28, 2007 and styled "Summery (sic) Judgment Motion Fed. R. Civ. P. 56" and "Writ of Habeas Corpus to Show Causes Order," are DENIED because this Court lacks jurisdiction to address them. This case has previously been dismissed and stricken from the active docket of this Court.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit copies of this order to the petitioner and to counsel of record herein. The Clerk is further DIRECTED to send this order and the petitioner's motion for certificate of appealability to the United States Court of Appeals for the Fourth Circuit.

DATED: September 27, 2007

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE